

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 253

AN ACT to amend the Indiana Code concerning natural and cultural resources.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 4-33-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. The commission shall revoke the license of a licensee who operates a riverboat upon Patoka Lake if that licensee violates any of the following:

- ~~(1) IC 14-26-2-6.~~
- ~~(2) (1) IC 14-26-2-7.~~
- (2) IC 14-26-2-23.**
- (3) IC 14-28-1.

SECTION 2. IC 14-25-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Fees received by the department under the following statutes shall be deposited in the fund:

- ~~(1) IC 14-26-2-9.~~
- (1) IC 14-26-2-23.**
- (2) IC 14-26-5-4.
- (3) IC 14-28-1-22.
- (4) IC 14-29-3-2.
- (5) IC 14-29-4-4.

SECTION 3. IC 14-26-2-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. **(a) Unless a person obtains a permit from the department under this section and**

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conducts the activities according to the terms of the permit, a person may not conduct the following activities:

(1) Over, along, or lakeward of the shoreline or waterline of a public freshwater lake:

(A) excavate;

(B) place fill; or

(C) place, modify, or repair a temporary or permanent structure.

(2) Construct a wall whose lowest point would be:

(A) below the elevation of the shoreline or waterline; and

(B) within ten (10) feet landward of the shoreline or waterline, as measured perpendicularly from the shoreline or waterline;

of a public freshwater lake.

(3) Change the water level, area, or depth of a public freshwater lake or the location of the shoreline or waterline.

(b) An application for a permit for an activity described in subsection (a) must be accompanied by the following:

(1) A nonrefundable fee of one hundred dollars (\$100).

(2) A project plan that provides the department with sufficient information concerning the proposed excavation, fill, temporary structure, or permanent structure.

(3) A written acknowledgment from the landowner that any additional water area created under the project plan is part of the lake and is dedicated to the general public use with the public rights described in section 5 of this chapter.

(c) The department may issue a permit after investigating the merits of the application. In determining the merits of the application, the department may consider any factor, including cumulative effects of the proposed activity upon the following:

(1) The shoreline, waterline, or bed of the lake.

(2) The fish, wildlife, or botanical resources.

(3) The public rights described in section 5 of this chapter.

(4) The management of watercraft operations under IC 14-15.

(5) The interests of a landowner having property rights abutting the lake or rights to access the lake.

(d) A contractor or agent of the landowner who engages in an activity described in subsection (a)(1), (a)(2), or (a)(3) must comply with the terms of a permit issued under this section.

(e) The commission shall adopt rules in the manner provided in ~~IC 14-10-2-4~~ under IC 4-22-2 to do the following:

(1) Assist in the administration of this chapter.

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(2) Provide objective standards for ~~licensing~~:

(A) ~~the placement of a temporary or permanent structure or material; or~~

(B) ~~the extraction of material;~~

**over, along, or within a shoreline or waterline: issuing permits under this section, including standards for the configuration of piers, boat stations, platforms, and similar structures. The standards:**

**(A) may provide for a common use if the standard is needed to accommodate the interests of landowners having property rights abutting the lake or rights to access the lake; and**

**(B) shall exempt any class of activities from licensing, including temporary structures,** if the commission finds that the class is unlikely to pose more than a minimal potential for harm to the public rights described in section 5 of this chapter.

(3) Establish a process under IC 4-21.5 for the mediation of disputes among ~~riparian owners~~ **persons with competing interests** or between a ~~riparian owner~~ **person** and the department. ~~concerning the usage of an area over, along, or within a shoreline or waterline for a matter within the jurisdiction of this chapter.~~ **The A rule adopted under this subsection must provide that:**

(A) if good faith mediation under the process fails to achieve a settlement, the department shall make a determination of the dispute; and

(B) a person affected by the determination of the department may seek administrative review by the commission.

**SECTION 4. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 14-26-2-6; IC 14-26-2-9.**

**SECTION 5. [EFFECTIVE JULY 1, 2006] (a) A permit issued under IC 14-26-2-6 or IC 14-26-2-9, before their repeal by this act, is valid and shall be considered a permit issued under IC 14-26-2-23, as amended by this act. A permit described in this SECTION expires on the date the permit would have expired if IC 14-26-2-6 and IC 14-26-2-9 had not been repealed by this act.**

**(b) This SECTION expires July 1, 2008.**

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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